

Byron L. Ames, Esq.
Nevada Bar No. 7581
THARPE & HOWELL, LLP
3425 Cliff Shadows Pkwy., #150
Las Vegas, Nevada 89129
(702) 562-3301
Facsimile (702) 562-3305
bames@tharpe-howell.com

Attorneys for Defendant,
NURSES 'R' SPECIAL, INC.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

VALLEY HEALTH SYSTEMS, LLC) Case No. 2:09-cv-01361-JCM-LRL
d/b/a SRPING VALLEY HOSPITAL)
MEDICAL CENTER)

Plaintiff.

14

vs

**NURSES 'R' SPECIAL, INC., a Nevada
Corporation, DOES 1-50 and ROE
CORPORATIONS 1 through 20:**

Defendant.

MA05-23269

**STIPULATION AND ORDER FOR DISCOVERY STATUS CONFERENCE ON
EMERGENCY BASIS**

COMES NOW Defendant NURSES 'R' SPECIAL, by and through its counsel of record,
THARPE & HOWELL, LLP, and VALLEY HEALTH SYSTEMS, LLC d/b/a SRPING VALLEY
HOSPITAL MEDICAL CENTER, by and through its counsel of record, HALL, PRANGLE &
SCHOONVELD, L.L.C. and do hereby enter into this Stipulation as follows:

111

11

1 I. PROCEDURAL STATUS

2 On March 17, 2011, the parties participated in a settlement conference before Magistrate Judge
3 Lawrence R. Leavitt. The parties failed to reach a settlement. At that point, there were several
4 motions pending before the court. First, Plaintiff's Motion for Summary Judgment had been
5 pending since August, 2010. See Document #22. Also pending was Plaintiff's Motion for
6 Qualified Protective Order, which was filed in September, 2010. See Document #23. The Court
7 recently ruled on that motion, allowing various depositions to proceed. See Document #49.
8 Defendant quickly noticed numerous depositions following that ruling, including of several of
9 Valley's Persons Most Knowledgeable. However, the Court recently granted Plaintiff's Motion
10 for Partial Summary Judgment, which raises numerous discovery related issues, including the
11 scope of permissible discovery. See Document #50. As those issues are still outstanding, the
12 timeline for discovery must also be revisited. Further, in the coming days, Defendant will be
13 filing a motion with the trial court, the result of which will directly impact the scope of discovery,
14 and will likely clarify the issues to be tried. It is anticipated that the parties will not have
15 definitive guidance on numerous issues impacting discovery until that time. As such, the parties
16 seek a discovery status conference to address these outstanding issues.

17 The current deadline to disclose expert reports is May 6, 2011, and the current discovery cutoff
18 is July 6, 2011. See Document #46. The parties seek to avoid incurring unnecessary costs while
19 these issues are outstanding, and seek additional time to conduct discovery once the scope of the
20 triable issues have been made clear by the court's ruling. Specifically, it is unclear based on the
21 court's recent ruling whether the issues of relative or allocated negligence will be triable issues.
22 Of course, these are expert-intensive issues, and the parties do not want to incur such costs until it
23 is clear that these issues are in fact triable. The parties also recognize that the possibility of a
24 negotiated settlement will increase once these issues are decided by the court. Defendant's
25
26
27
28

motion, to be filed this week, will hopefully clarify these issues. The parties seek a discovery status conference in order to discuss these issues, and decide upon an appropriate course of discovery, including new discovery deadlines. Based on the upcoming deadlines, the parties request that this status conference be held as soon as possible. The parties are amenable to a telephonic conference if the Court prefers.

II. PREVIOUS EXTENSIONS

On January 31, 2011, Magistrate Judge Lawrence R. Leavitt signed an Order implementing the parties' stipulation to continue discovery dates. See Document #46. The stipulation was based on the then upcoming settlement conference, which was held on March 17, 2011. The parties agreed to continue the initial expert disclosures until six weeks after the settlement conference. Shortly after the settlement conference, the court issues several rulings, calling into question various discovery matters, as outlined above.

III. DISCOVERY COMPLETED

Both sides have made initial document and witness disclosures pursuant to FRCP 26(a)(1). Nurses also made supplemental disclosures. Nurses propounded six sets of Requests for Production, three sets of Interrogatories, and Requests for Admission. Nurses also took the deposition of Peter Durney. The deposition of Ken Webster, was re-set for April 26, 2011, following the court's limited granting of Plaintiff's Motion for Qualified Protective Order. See Document #49. However, that deposition will be continued. Further, the depositions of six of Valley's PMK's are set for May 6, 2011. The parties would like to continue these pending a determination of the scope of triable issues, as discussed above.

IV. DISCOVERY THAT REMAINS TO BE COMPLETED

In addition to the depositions noted above, expert discovery has not been completed.

1 V. REASONS WHY REMAINING DISCOVERY WAS NOT COMPLETED

2 The parties have not completed expert discovery due, in part, to the Court's recent rulings
3 on several motions and the outstanding issues as to the triable issues on which discovery should be
4 pursued. Please see Section I., above. The parties seek clarification on these issues at a discovery
5 status conference as soon as possible.

6 \\ \\

7

8

9 \\ \\

10

11 \\ \\

12

13 \\ \\

14

15 \\ \\

16

17 \\ \\

18 \\ \\

19

20 \\ \\

21

22 \\ \\

23

24 \\ \\

25 \\ \\

26

27 \\ \\

28

1
STIPULATION

2 IT IS HEREBY STIPULATED AND AGREED that A Discovery Status Conference be
3 scheduled, at a date and time to be determined by the Court.

4 DATED this 27 day of April, 2011.

5 THARPE & HOWELL, LLP

6 By:

7 
8 Byron L. Ames, Esq.
Nevada Bar No.: 7581
9 3425 Cliff Shadows Pkwy., Suite 150
10 Las Vegas, Nevada 89129

11 Counsel for Defendant

DATED this ____ day of April, 2011.

HALL, PRANGLE & SCHOONVELD, LLC

By:

Michael E. Prangle, Esq.
Nevada Bar No.: 8619
Kenneth M. Webster, Esq.
Nevada Bar No.: 7205
777 N. Rainbow Boulevard, Suite 225
Las Vegas, Nevada 89107

Counsel for Plaintiff

13 **ORDER**

14 Pursuant to the foregoing Stipulation and good cause showing therefore, a Discovery
15 Status Conference be set in this matter, on the _____ day of _____, 2011.

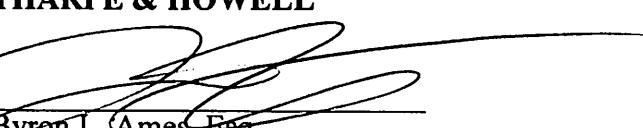
16
17 IT IS SO ORDERED.
18

19
20 UNITED STATES MAGISTRATE JUDGE

21 DATED this ____ day of ____, 2011.

22
23 Submitted by:

24 **THARPE & HOWELL**

25 
26 Byron L. Ames, Esq.
Nevada Bar No: 7581
27 3425 Cliff Shadows Parkway
Las Vegas, NV 89129
28 Counsel for Defendant

STIPULATION

IT IS HEREBY STIPULATED AND AGREED that A Discovery Status Conference be scheduled, at a date and time to be determined by the Court.

DATED this ____ day of April, 2011.

THARPE & HOWELL, LLP

By: _____

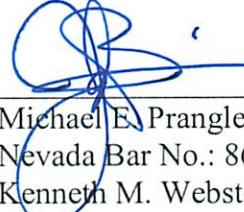
Byron L. Ames, Esq.
Nevada Bar No.: 7581
3425 Cliff Shadows Pkwy., Suite 150
Las Vegas, Nevada 89129

Counsel for Defendant

DATED this 27 day of April, 2011.

HALL, PRANGLE & SCHOONVELD, LLC

By:


Michael E. Prangle, Esq.
Nevada Bar No.: 8619
Kenneth M. Webster, Esq.
Nevada Bar No.: 7205
777 N. Rainbow Boulevard, Suite 225
Las Vegas, Nevada 89107

Counsel for Plaintiff

ORDER

Pursuant to the foregoing Stipulation and good cause showing therefore, a Discovery Status Conference be set in this matter, on the 16th day of May, 2011, at 1:30 p.m. in Courtroom 3C.

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE

DATED this 6th day of May, 2011.

Submitted by:

THARPE & HOWELL

Byron L. Ames, Esq.
Nevada Bar No: 7581
3425 Cliff Shadows Parkway
Las Vegas, NV 89129
Counsel for Defendant